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*Attorneys for Defendant*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**MICHAEL G. SCHWERN,**  
**Plaintiff,**

v.

**NÓIRÍN PLUNKETT,**  
**Defendant.**

Case No. 3:14-cv-00146-PK

**THIRD JOINT STATUS REPORT**

This is the third formal status report filed pursuant to the Court's August 15, 2014 Order directing the parties to jointly file such reports every 120 days during the pendency of defendant's appeal, and to give the Court prompt notice of any material developments. Doc. 38.

The parties filed their second joint status report filed on April 8, 2015. Doc. 41. The material developments since are as follows.

Defendant Nóirín Plunkett died unexpectedly in late July. The parties' counsel learned of this tragic event on July 29, 2015. A notice on record of defendant's death is filed concurrently herewith. Despite Plunkett's death, plaintiff Michael Schwern has not withdrawn his complaint. Schwern intends to pursue his claims against Plunkett's personal representative as a substitute defendant when one is named.

On July 8, 2014, Plunkett had noticed an appeal (Doc. 26) of the Court's Order (Doc. 25) denying Plunkett's special motion to strike pursuant to ORS 31.150 (Doc. 4). On May 11, 2015, the Ninth Circuit deemed the fully briefed appeal ready to be calendared but has not yet scheduled oral argument. The Ninth Circuit's next Portland session is scheduled for October. Undersigned counsel appeared on behalf of Plunkett in the Ninth Circuit on June 26, 2015.

On August 15, 2014, the Court had stayed all proceedings pending the outcome of Plunkett's appeal. Doc. 38. On May 4, 2015, Schwern filed a motion to lift the stay for the limited purpose of adjudicating his simultaneously filed motion for sanctions against Plunkett. Doc. 44, 45. Finding that the sanctions issue could be litigated after resolution of Plunkett's appeal, the Court denied Schwern's motion to lift stay on June 25, 2015. Doc. 60.

The Court had granted Plunkett's former counsel Erin Olsen's motion to withdraw on April 7, 2015. Doc. 42. Lake James H. Perriguet appeared on behalf of Plunkett on May 7, 2015. Doc. 49. The Court admitted undersigned counsel *pro hac vice* on May 12, 2015. Doc. 51.

The parties are scheduled to file their next joint status report on November 27, 2015, pursuant to the Court's August 15, 2014 Order. Doc. 38.

Dated: July 31, 2015

Respectfully submitted,

/s/ Dan Booth

Dan Booth

*Counsel for Defendant*

*Filed on behalf of both parties (with consent)*

### **CERTIFICATE OF SERVICE**

I hereby certify that I served a true copy of the foregoing document by using the Court's ECF system on this 31st day of July, 2015, thereby causing a true copy of said document to be served electronically upon counsel of record for each other party.

/s/ Dan Booth